IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

WP(C).No. 10630 of 2007(M)

PETITIONER:

G.SOMAN, SON OF GOPAL,
ROHINI, PALLIKKAL, KOTTARAKKARA.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENTS:
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1. NEENDAKARA GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
NEENDAKARA GRAMA PANCHAYAT, NEENDAKARA P.O.

2. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF THE RDO, KOLLAM.

3. MANMADAN, SON OF SIVADASAN PILLAI,
RAM NIVAS, NEENDAKARA VILLAGE.

ADDL. 4. THE KERALA COASTAL ZONE MANAGEMENT AUTHORITY,
REP. BY ITS CHAIRPERSON, SECRETARIAT BUILDING,
THIRUVANANTHAPURAM

ADDL. 4TH RESPONDENT IS IMPLEADED AS PER ORDER DATED 12.9.2007 IN I.A.10045/07

R1 BY ADV. SRI.M.SASINDRAN
R3 BY ADV.SRI.P.S.SREEDHARAN PILLAI
SMT.C.G.PREETHA
SMT.P.RANI DIOTHIMA
R2 & ADDL. R4 BY SR.GOVT.PLEADER SRI.K.J.MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C)No.10630 OF 2007

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DATED THIS THE 12TH SEPTEMBER, 2007

J U D G M E N T

Ext.P1 order passed by the Revenue Divisional Officer and the consequential notice Ext.P2 issued by the Panchayat in respect of a building put up by the petitioner on the ground that the building has been constructed in violation of the CRZ Notification of 1991 are under challenge.

2. Heard Sri.P.B.Sahasranaman, counsel for the petitioner, Sri.M.Sasindran, counsel for the Panchayat and Sri.P.S.Sreedharan Pillai, counsel for the party-respondent. I have also heard Sri.K.J.Mohammed Anzar, Government Pleader appearing for the additional 4th respondent.

3. My attention was drawn by Mr.Sahasranaman to the order of the Supreme Court in SLP (Civil) No.5038 of 2002 (**P.A.Fazal Gafoor v.State of Kerala & Ors.**). The learned counsel submitted that the competent authority is the additional 4th respondent and the said authority may be directed to take appropriate decision on the application to be submitted by the petitioner before that authority. The learned counsel for the party-respondent would submit that as far as construction of buildings is concerned, it is the Panchayat which is

having jurisdiction and the power of the additional 4th respondent can only be regarding the conduct of industries within the zone regulated by the CRZ Notification. But having gone through the order of the Supreme Court, I find that the Supreme Court has directed in that order that all the relevant aspects of the matter pertaining to construction can also be considered by the additional 4th respondent.

Accordingly I dispose of the Writ Petition issuing the following directions:-

The petitioner is directed to file appropriate application before the additional 4th respondent, arraying the Panchayat also as a respondent. The additional 4th respondent will take up the application, consider the same in the light of the various grounds raised in the Writ Petition, hear the petitioner, the 3rd respondent and anybody else who, according to the additional 4th respondent is a necessary party, and take a decision at the earliest and at any rate within three months of receiving the application. The interim order issued in this case will continue till final orders are passed by the additional 4th respondent as directed above.

(PIUS C.KURIAKOSE, JUDGE)

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